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REMARKS

Claims 1-20 were presented for examination. The final Office Action dated August 23, 2005 rejects claims 1-20. This paper amends claims 1, 6, 7, 10, 19, and 20. Claims 1-20 remain pending in the application.

Claim Objection

The Office Action objects to claim 6 for being dependent on itself. Applicants are grateful to the Examiner for pointing out this inadvertence. In Applicants' response to the first office action, Applicants inadvertently amended claim 6 with an amendment intended for claim 7. This paper corrects claim 6 as originally filed, and amends claim 7 to depend from claim 6.

Rejections under 35 U.S.C. 103(a)

The Office Action rejects claims 10, 11, 13-15, and 16- 20 under 35 U.S.C. 103(a) as being unpatentable over Ballantine (U.S. Patent No. 6,594,047); claims 1, 2, 3, 5, and 8 under 35 U.S.C. 103(a) as being unpatentable over Applicants' Admitted Prior Art (AAPA) in view of Ballantine; claims 4, 6, and 7 under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Ballantine, and further in view of Brownmiller (U.S. Patent No. 5,768,255); claim 9 under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Ballantine, and further in view of Cotter (U.S. Patent No. 6,731,648); and claim 12 under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Ballantine, and further in view of Galway (U.S. Patent No. 5,768,530). Applicants respectfully traverse these rejections to the extent they are maintained against the claims, as now amended.

In their response to the first office action, Applicants argued that Ballantine does not teach or suggest the Applicants' invention because the

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messages carried by Ballantine's optical supervisory channel (OSC) do not contain performance information related to a specific service. Although the current final Office Action dismisses that argument as non-persuasive, Applicants hold that the argument remains valid – Ballantine's OSC messages may contain performance information, but that performance information reflects the performance of a particular optical channel, not of a specific service. Notwithstanding, Applicants have amended their claims to clarify this point. Specifically, representative independent claim 10 of the Applicants' invention now recites that each service performance report message identifies the service to which the service-specific information in that message pertains.

Unlike the Applicants' invention, Ballantine's OSC messages do not identify the specific service to which the performance information in these messages pertains. With the Applicants' invention, a service provider is able to determine the performance of a specific service and that service's identity directly from the message, but can make no such assessment from Ballantine's OSC messages. Although the information in Ballantine's OSC messages can alert the service provider to a defective optical channel, these messages provide no direct indication of which service, if any, the defective optical channel is affecting. Therefore, Applicants respectfully submit that Ballantine does not teach or suggest the Applicants' claimed invention and that the rejection to the claim is overcome.

Independent claims 1, 19, and 20 recite language similar to the language recited in claim 10. Therefore, these independent claims are also patentably distinguishable over the cited art for at least those reasons provided in connection with claim 10. In addition, dependent claims 2-9, and 11-18 depend directly or indirectly from a patentable independent claim, and incorporate all of its respective limitations, and therefore are also

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patentably distinguishable over the cited references for at least this reason.
Therefore, the Applicants respectfully submit that the rejection against these claims is also overcome.

CONCLUSION

In view of the amendments and arguments made herein, Applicants submit that the application is in condition for allowance and requests early favorable action by the Examiner.

If the Examiner believes that a telephone conversation with the Applicant's representative would expedite allowance of this application, the Examiner is cordially invited to call the undersigned at (508) 303-2003.

Authorization is hereby granted to apply any credits or fees due in this case to Deposit Account 50-2295.

Respectfully submitted,

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